

**RECEIVED
CENTRAL FAX CENTER****MAY 03 2010****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

First Named Applicant: Dacosta)	Art Unit: 2445
)	
Serial No.: 10/782,345)	Examiner: Hossain
)	
Filed: February 19, 2004)	50T5722.02
)	
For: SYSTEM AND METHOD FOR)	May 3, 2010
AUTHENTICATING COMPONENTS)	750 B STREET, Suite 3120
IN WIRELESS HOME)	San Diego, CA 92101
ENTERTAINMENT SYSTEM)	

REPLY BRIEF

Commissioner of Patents and Trademarks

Dear Sir:

This Reply Brief responds to the Examiner's Answer dated April 28, 2010.

The Answer, page 7, insists that the feature of exchanging communication information using a button press is "well known". As the examiner must admit, however, it was not apparently so well known to Mr. Sayers, who did not mention it.

For the first time during prosecution, the examiner now trots out a new reference in addition to formerly cited Jo, neither of which is used as part of the formal rejection, in an attempt to shore up his dubious case of obviousness.

As an initial matter, it appears that the examiner is attempting to back into a new rejection without actually doing so because Sayers remains the only reference used in the rejection. The new references ostensibly are being used only to support officially noticing away the limitation of exchanging the configuration information between the server and component

1165-115AP1

CASE NO.: 50T5722.02
Serial No.: 10/782,345
May 3, 2010
Page 2

PATENT
Filed: February 19, 2004

over the secondary system only when the distance between them is within a communication distance and a user manipulates a button on the server or component. Accordingly, what must be shown to meet the claim using only Sayers and official notice is that the officially noticed fact - using a button push to effectuate information exchange between two components over a secondary channel *only* when the distance between them is within a communication distance *and* a user manipulates a button on the server or component. - was well known.

The evidence does not support the examiner's gambit. Jo demonstrates *only* that it was known to push a button *on a washing machine* or a "user terminal" to get the *washing machine* to start as pointed out in the Appeal brief. Sensing the weakness of Jo, the examiner for the first time now cites Zick, USPP 2009/0169006. However, Zick fails to teach anything about the officially noticed fact - a button push in addition to a distance limitation to effectuate information exchange over a secondary channel - because Zick does not envision a distance limitation and furthermore does not apparently have a secondary channel, much less one that is used as claimed. Accordingly, given that the examiner has not proposed modifying Sayers with either Jo or Zick, but instead has relied on Jo and Zick only in a fruitless attempt to demonstrate the well-known use of a button to effect the requisite exchange over a secondary channel *in combination with* a distance limitation, the rejections merit reversal.

Furthermore, even were the examiner to belatedly obtain the Technology Center Director's approval to levy a new ground of rejection, neither Jo nor Zick would be appropriate for modifying Sayers. Jo applies to remote starting of washing machines and suggests nothing about exchanging configuration information. Zick teaches that two devices exchange

1168-115AP1

CASE NO.: 50T5722.02
Serial No.: 10/782,345
May 3, 2010
Page 3

PATENT
Filed: February 19, 2004

registration information only if they are the only two devices running Zick's enhanced secure shared provisioning protocol (ESSPP), and if they detect other devices using ESSPP, they terminate, paragraph 12. In contrast, Sayers requires that multiple terminals be able to exchange information with each other, e.g., paragraphs 23 and 24.

Additionally, while Zick mentions a button push and Sayers allegedly mentions a distance limitation, there is no apparent suggestion to combine the two as claimed. This is a classic case of identifying two elements of a claim in the applied references without any suggestion of record to combine the two in the way recited in the claim.

Not quite able to kick the habit of conjecture and hypothesis, at the bottom of page 9 of the Answer the examiner alleges something about Sayers' power button somehow meeting Claim 10. Since every electrical device has a power button, this comment in effect completely removes the button limitation from Claim 10. While convenient from the standpoint of an examiner resistant to allowance, such a strained reading of the limitation in light of the specification accords an unreasonably broad construction to Claim 10, *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*).

With respect to use of a PAN, the claim cannot be construed apart from the specification to conclude that Bluetooth is PAN as the examiner attempts on page 10 of the Answer, see, e.g., bottom of page 6 and page 10 of the specification, unambiguously stating that a PAN network includes the human body and nowhere suggesting otherwise.

Yet another brand-new reference has been presented for the first time in the Answer on page 10, using Margulis, USPP 2001/0021998 ostensibly as a teaching that a base station can be

1168-115AP1

CASE NO.: 50T5722.02
Serial No.: 10/782,345
May 3, 2010
Page 4

PATENT
Filed: February 19, 2004

a set-top box. Once again, Margulis is not used in the rejection, and is being backed in to the record at this advanced stage under the guise of belated support for an improper taking of official notice. As such, it is necessary only to show that the specific thing being officially noticed - a server with both a primary and secondary communication system that exchanges configuration information over the secondary system *only* upon the occurrence of two conditions precedent - is not taught in Margulis to have been well known in a set-top box implementation.

Respectfully submitted,

/John L. Rogitz/

John L. Rogitz, Reg. No. 33,549
750 B Street, Suite 3120
San Diego, CA 92101
619.338.8075

JLR:jg

1168-115AP1